

**ADOPTED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

LCB File No. R105-97

Effective March 5, 1998

EXPLANATION – Matter in *italics* is new; matter in brackets [] is material to be omitted.

AUTHORITY: §§1,2 and 14-31, NRS 445B.210 and 445B.300; §§3-13 and 32-36, NRS 445B.210.

Section 1. Chapter 445B of NAC is hereby amended by adding thereto a new section to read as follows:

1. The owner or operator of a stationary source with a Class II operating permit may request, on an application form provided by the director, a revision of the operating permit to allow for a modification to the stationary source.

2. An application for a revision of a Class II operating permit must include:

(a) The name and address of the owner or operator of the stationary source;

(b) The location of the stationary source;

(c) A description of:

(1) The existing emission units undergoing the modification and the applicable control systems; and

(2) The proposed modification to such emission units;

(d) The allowable emission rates from the existing emission units of each regulated air pollutant to which a standard applies, as determined in accordance with NAC 445B.239, which

exist at the time of the application before the modification and which would exist after the modification takes place;

(e) A description of any proposed new emission units and applicable control systems;

(f) The potential to emit of the proposed new emission units for each regulated air pollutant to which a standard applies;

(g) A description of the procedures and methods used to determine the emission rates;

(h) A discussion of all applicable requirements to which the new or modified operations will be subject;

(i) An explanation of any proposed exemption from any applicable requirement;

(j) An environmental evaluation conducted in accordance with NAC 445B.308 to 445B.313, inclusive; and

(k) Any other information that the director determines is necessary to process the application and issue a Class II operating permit pursuant to this section and NAC 445B.001 to 445B.395, inclusive.

Sec. 2. NAC 445B.001 is hereby amended to read as follows:

445B.001 As used in NAC 445B.001 to 445B.395, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445B.002 to 445B.211, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NAC 445B.011 is hereby amended to read as follows:

445B.011 “Air pollution” [means the presence in the outdoor atmosphere of one or more air contaminants or any combination thereof in a quantity and duration that tends to:

1. Injure human health or welfare, animals, plants, or other property;

2. Limit visibility or interfere with scenic, esthetic, and historical values of the state; or
3. Interfere with the enjoyment of life or property.] *has the meaning ascribed to it in NRS*

445B.115.

Sec. 4. NAC 445B.019 is hereby amended to read as follows:

445B.019 “Applicable requirement” means, as applied to [an emission unit in a Class I] *a stationary* source:

1. Any standard or other relevant requirement:

(a) Provided in NRS 445B.100 to 445B.640, inclusive, and NAC 445B.001 to 445B.395, inclusive [;] , *and section 1 of this regulation, except for the standards for ambient air established in NAC 445B.391;*

(b) Provided in the applicable implementation plan approved or adopted by the EPA pursuant to 42 U.S.C. §§ 7401-7515, inclusive;

(c) For a hazardous air pollutant adopted pursuant to 42 U.S.C. § 7412, including any requirement regarding the prevention of accidental releases;

(d) For a program to control acid rain adopted pursuant to 42 U.S.C. §§ 7651-7651o, inclusive;

(e) For enhanced monitoring or for compliance certification adopted pursuant to 42 U.S.C. § 7413(a)(3) or 7661c(b);

(f) For solid waste incineration units adopted pursuant to 42 U.S.C. § 7429;

(g) For consumer and commercial products or tank vessels adopted pursuant to 42 U.S.C. § 7511b; and

(h) For the protection of stratospheric ozone adopted pursuant to 42 U.S.C. §§ 7671-7671q, inclusive, unless the administrator determines that such provisions are not required in an operating permit;

2. A new source performance standard adopted pursuant to 42 U.S.C. § 7411;

3. Any term or condition of any permit issued pursuant to the requirements of 42 U.S.C. §§ 7401-7515, inclusive, including provisions regarding the prevention of significant deterioration of air quality and new source review; and

4. Any national ambient air quality standard or requirement regarding increments or visibility adopted pursuant to 42 U.S.C. §§ 7470-7492, inclusive, as the standard applies to a temporary source for which the owner or operator has applied for and obtained an operating permit pursuant to NAC 445B.300 and 445B.331.

Sec. 5. NAC 445B.0425 is hereby amended to read as follows:

445B.0425 “Commission” [means the state environmental commission.] *has the meaning ascribed to it in NRS 445B.120.*

Sec. 6. NAC 445B.044 is hereby amended to read as follows:

445B.044 “Construction” means [fabrication, erection,] *erection* or installation of an [affected facility.] *emission unit.*

Sec. 7. NAC 445B.058 is hereby amended to read as follows:

445B.058 1. “Emission” means the act of passing into the atmosphere [an air contaminant] *a regulated air pollutant* or a gas stream which contains, or may contain, [an air contaminant.] *a regulated air pollutant.*

2. The term includes the material passed to the atmosphere.

Sec. 8. NAC 445B.094 is hereby amended to read as follows:

445B.094 1. Except as otherwise provided in subsection [2,] 3, “major source” means any stationary source [or group of stationary sources] that:

- (a) Is located on one or more contiguous or adjacent properties;
- (b) Is under the common control of the same person or persons;
- (c) Belongs to a single major industrial grouping as described in the “Standard Industrial Classification Manual,” as incorporated by reference in NAC 445B.221; and

(d) [Complies with] *Meets* one of the following [:] *conditions*:

(1) Is located in a nonattainment area and is required to obtain an operating permit pursuant to 42 U.S.C. §§ 7501 to 7515, inclusive; [or]

(2) Directly emits or has the potential to emit:

(I) One hundred tons per year or more of any regulated air pollutant, excluding particulate matter more than 10 microns in diameter; or

(II) Ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants or a lesser quantity as established by the commission [.] ; *or*

(3) Is located in a particulate matter (PM₁₀) “serious” nonattainment area and directly emits or has the potential to emit 70 tons per year or more of PM₁₀.

The director shall consider fugitive emissions in determining whether a stationary source is major for any source category listed in 40 C.F.R. § [52.21(b),] *52.21(b)(1)(iii)*, as adopted by reference pursuant to NAC 445B.221, or whether a stationary source of a hazardous air pollutant is a major source. To determine whether a stationary source [or group of stationary

sources] is a major source of hazardous air pollutants under 42 U.S.C. § 7412, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station must not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control.

2. *In determining whether a stationary source is a major source, the director shall not consider the emissions from mobile sources subject to regulation under Title II of the federal Clean Air Act, 42 U.S.C. §§ 7521 to 7590, inclusive, or from nonroad engines. As used in this subsection, “nonroad engine” has the meaning ascribed to it in 40 C.F.R. § 89.2, as that section existed on December 31, 1997.*

3. For the purposes of the program for the prevention of significant deterioration of air quality (PSD), *the term “major source” [has the meaning ascribed to it] is synonymous with the term “major stationary source” as that term is defined in 40 C.F.R. § 52.21(b)(1), as adopted by reference in NAC 445B.221.*

Sec. 9. NAC 445B.187 is hereby amended to read as follows:

445B.187 1. “Stationary source” means **[any building, structure, facility, or installation,]** *all buildings, structures, facilities and installations,* including temporary sources, which **[emits]** :

(a) Belong to the same major industrial groupings described in the “Standard Industrial Classification Manual,” as incorporated by reference in NAC 445A.221;

(c) Are located on one or more contiguous or adjacent properties;

(d) Are owned or operated by the same person or by persons under common control; and

(e) *Emit* or may emit any regulated air pollutant that is regulated under 42 U.S.C. §§ 7401 to 7671q, inclusive, or NAC 445B.001 to 445B.395, inclusive [.] , *and section 1 of this regulation.*

2. *Contracted operations that support the primary operations of the stationary source are part of the stationary source, except that temporary construction activities, including, without limitation, the construction of emission units, are not part of the stationary source.*

Sec. 10. NAC 445B.211 is hereby amended to read as follows:

445B.211 The abbreviations used in NAC 445B.001 to 445B.395, inclusive, *and section 1 of this regulation* have the following meanings:

- Btu [-] British thermal unit
- [°C degree Celsius (centigrade)]
- CO carbon monoxide
- CO₂ carbon dioxide
- °F degree Fahrenheit
- Hg mercury
- H₂O water
- H₂S hydrogen sulfide
- [kg kilogram]
- lb pound
- [m meter]
- mg milligram]
- NO_x nitrogen oxides

O₂ oxygen

ppm parts per million

SO₂ sulfur dioxide

[Kg-cal..... kilogram-calorie]

C.F.R. Code of Federal Regulations

Sec. 11. NAC 445B.220 is hereby amended to read as follows:

445B.220 If any of the provisions of NAC 445B.001 to 445B.395, inclusive, *or section 1 of this regulation*, or any application thereof to any person, thing [,] or circumstance is held invalid, it is intended that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

Sec. 12. NAC 445B.221 is hereby amended to read as follows:

445B.221 1. Title 40 C.F.R. §§ 51.100(s), 51.100(hh) to 51.100(kk), inclusive, 51.100(nn), 51.165, and 52.21, and Appendix S *and Appendix W* of Title 40 C.F.R. Part 51 are hereby adopted by reference as they existed on July 1, [1993.] 1997.

2. The following subparts of Title 40 C.F.R. Part 60 are hereby adopted by reference as they existed on July 1, [1993:] 1997:

(a) Subpart A, General Provisions.

(b) Subpart D, Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.

(c) Subpart Da, Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.

(d) *Subpart Db, Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.*

(e) Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

[(e)] (f) Subpart E, Standards of Performance for Incinerators.

[(f)] (g) Subpart Ea, Standards of Performance for Municipal Waste Combustors [.

(g)] *for Which Construction is Commenced After December 20, 1989 and On or Before September 20, 1994.*

(h) Subpart F, Standards of Performance for Portland Cement Plants.

[(h)] (i) Subpart G, Standards of Performance for Nitric Acid Plants.

[(i)] (j) Subpart H, Standards of Performance for Sulfuric Acid Plants.

[(j)] (k) Subpart I, Standards of Performance for *Hot Mix* Asphalt [**Concrete Plants.**

(k)] *Facilities.*

(l) Subpart J, Standards of Performance for Petroleum Refineries.

[(l)] (m) Subpart K, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.

[(m)] (n) Subpart Ka, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.

[(n)] (o) Subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.

[(o)] (p) Subpart L, Standards of Performance for Secondary Lead Smelters.

[(p)] (q) Subpart M, Standards of Performance for Secondary Brass and Bronze Production Plants.

[(q)] (r) Subpart N, Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.

[(r)] (s) Subpart Na, Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.

[(s)] (t) Subpart O, Standards of Performance for Sewage Treatment Plants.

[(t)] (u) Subpart P, Standards of Performance for Primary Copper Smelters.

[(u)] (v) Subpart Q, Standards of Performance for Primary Zinc Smelters.

[(v)] (w) Subpart R, Standards of Performance for Primary Lead Smelters.

[(w)] (x) Subpart S, Standards of Performance for Primary Aluminum Reduction Plants.

[(x)] (y) Subpart T, Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

[(y)] (z) Subpart U, Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

[(z)] (aa) Subpart V, Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

[(aa)] (bb) Subpart W, Standards of Performance for the Phosphate Fertilizer Industry:
Triple Superphosphate Plants.

[(bb)] (cc) Subpart X, Standards of Performance for the Phosphate Fertilizer Industry:
Granular Triple Superphosphate Storage Facilities.

[(cc)] (dd) Subpart Y, Standards of Performance for [Cool] Coal Preparation Plants.

[(dd)] (ee) Subpart Z, Standards of Performance for Ferroalloy Production Facilities.

[(ee)] (ff) Subpart AA, Standards of Performance for Steel Plants: Electric Arc Furnaces
Constructed After October 21, 1974, and on or Before August 17, 1983.

[(ff)] (gg) Subpart AAa, Standards of Performance for Steel Plants: Electric Arc Furnaces
and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.

[(gg)] (hh) Subpart BB, Standards of Performance for Kraft Pulp Mills.

[(hh)] (ii) Subpart CC, Standards of Performance for Glass Manufacturing Plants.

[(ii)] (jj) Subpart DD, Standards of Performance for Grain Elevators.

[(jj)] (kk) Subpart EE, Standards of Performance for Surface Coating of Metal Furniture.

[(kk)] (ll) Subpart GG, Standards of Performance for Stationary Gas Turbines.

[(ll)] (mm) Subpart HH, Standards of Performance for Lime Manufacturing Plants.

[(mm)] (nn) Subpart KK, Standards of Performance for Lead-Acid Battery Manufacturing
Plants.

[(nn)] (oo) Subpart LL, Standards of Performance for Metallic Mineral Processing Plants.

[(oo)] (pp) Subpart MM, Standards of Performance for Automobile and Light-Duty Truck
Surface Coating Operations.

[(pp)] (qq) Subpart NN, Standards of Performance for Phosphate Rock Plants.

[(qq)] (rr) Subpart PP, Standards of Performance for Ammonium Sulfate Manufacture.

[(rr)] (ss) Subpart QQ, Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.

[(ss)] (tt) Subpart RR, Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.

[(tt)] (uu) Subpart SS, Standards of Performance for Industrial Surface Coating: Large Appliances.

[(uu)] (vv) Subpart TT, Standards of Performance for Metal Coil Surface Coating.

[(vv)] (ww) Subpart UU, Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.

[(ww)] (xx) Subpart VV, Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.

[(xx)] (yy) Subpart WW, Standards of Performance for the Beverage Can Surface Coating Industry.

[(yy)] (zz) Subpart XX, Standards of Performance for Bulk Gasoline Terminals.

[(zz)] (aaa) Subpart DDD, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

[(aaa)] (bbb) Subpart FFF, Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

[(bbb)] (ccc) Subpart GGG, Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.

[(ccc)] (ddd) Subpart HHH, Standards of Performance for Synthetic Fiber Production Facilities.

[(ddd)] (eee) Subpart III, Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

[(eee)] (fff) Subpart JJJ, Standards of Performance for Petroleum Dry Cleaners.

[(fff)] (ggg) Subpart KKK, Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.

[(ggg)] (hhh) Subpart LLL, Standards of Performance for Onshore Natural Gas Processing: SO₂ Emissions.

[(hhh)] (iii) Subpart NNN, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

[(iii)] (jjj) Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.

[(jjj)] (kkk) Subpart PPP, Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.

[3. Title 40 C.F.R. Part 60,]

(lll) Subpart UUU, Standards of Performance for Calciners and Dryers in Mineral Industries . [, is hereby adopted by reference as it existed on September 28, 1992. A copy of Subpart UUU may be obtained free of charge from the Nevada Bureau of Air Quality, 333 West Nye Lane, Carson City, Nevada 89710.

4.] (mmm) *Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills.*

3. *Title 40 C.F.R. Part 60, Subpart Ec, Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996, is hereby adopted by reference as it existed on September 15, 1997. A copy of Subpart Ec may be obtained free of charge from the Nevada Bureau of Air Quality, 333 West Nye Lane, Carson City, Nevada 89706-0851.*

4. The following subparts of Title 40 C.F.R. Part 61 are hereby adopted by reference as they existed on July 1, [1993:] 1997:

(a) Subpart A, General Provisions.

(b) Subpart C, National Emission Standard for Beryllium.

(c) Subpart D, National Emission Standard for Beryllium Rocket Motor Firing.

(d) Subpart E, National Emission Standard for Mercury.

(e) Subpart F, National Emission Standard for Vinyl Chloride.

(f) Subpart BB, National Emission Standard for Benzene Emissions from Benzene Transfer Operations.

(g) Subpart FF, National Emission Standard for Benzene Waste Operations.

5. *The following subparts of Title 40 C.F.R. Part 63 are hereby adopted by reference as they existed on July 1, 1997:*

(a) *Subpart A, General Provisions.*

(b) *Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.*

(c) *Subpart N, National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.*

(d) *Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.*

(e) *Subpart T, National Emission Standards for Halogenated Solvent Cleaning.*

(f) *Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.*

(g) *Subpart KK, National Emission Standards for the Printing and Publishing Industry.*

(h) *Subpart OO, National Emission Standards for Tanks - Level 1.*

(i) *Subpart PP, National Emission Standards for Containers.*

(j) *Subpart QQ, National Emission Standards for Surface Impoundments.*

(k) *Subpart RR, National Emission Standards for Individual Drain Systems.*

(l) *Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.*

6. Title 40 C.F.R. Part 72 is hereby adopted by reference as it existed on [February 16, 1995.] July 1, 1997. If the provisions of 40 C.F.R. Part 72 conflict with or are not included in NAC 445B.001 to 445B.395, inclusive, *and section 1 of this regulation*, the provisions of 40 C.F.R. Part 72 apply.

[6.] 7. *Title 40 C.F.R. Part 76 is hereby adopted by reference as it existed on July 1, 1997. If the provisions of 40 C.F.R. Part 76 conflict with or are not included in NAC 445B.001 to 445B.395, inclusive, and section 1 of this regulation, the provisions of 30 C.F.R. Part 76 apply.*

8. Title 42 of the United States Code, section 7412(b), List of Hazardous Air Pollutants, [is] and the amendments to section 7412 contained in 40 C.F.R. Part 63, Subpart C, are hereby adopted by reference as [it] they existed on [November 3, 1993.

7.] July 1, 1997.

9. The “Standard Industrial Classification Manual,” 1987 edition, published by the United States Office of Management and Budget, is hereby adopted by reference. A copy of the manual may be obtained from the Superintendent of Documents, [United States Government Printing Office, Washington, D.C. 20402, or 450 Golden Gate Avenue, Room 1023,] P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 or 301 Second, Marathon Plaza, Suite 1415, San Francisco, California [94102,] 94107-1366, for the price of [\$24.

8.] \$29.

10. Except as otherwise provided in subsections 3 and [7,] 9, a copy of the publications which contain these provisions may be obtained from the:

(a) Superintendent of Documents, [United States Government Printing Office, Washington, D.C. 20402, or 450 Golden Gate Avenue, Room 1023,] P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 or 301 Second, Marathon Plaza, Suite 1415, San Francisco, California [94102,] 94107-1366. The price is:

- (1) For §§ 51.100(s), 51.100(hh) to 51.100(kk), inclusive, and 51.100(nn) [39] \$50
- (2) For Part 51, Appendix S [39] 50
- (3) For § 51.165..... [39] 50
- (4) For Part 51, Appendix W..... 50

(5) For § 52.21	[39] 42
[(5)] (6) For Part 60	[36] 82
[(6)] (7) For Part 61	[41] 33
[(7)] (8) <i>For Part 63</i>	81
(9) For Part 72	[41] 60
(10) <i>For Part 76</i>	60

(b) Division of state library and archives of the department of museums, library and arts for 15 cents per page.

[9.] 11. For the purposes of the provisions of Parts 60 [and 61,] , 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section, the director may not approve alternate or equivalent test methods or alternative standards or work practices.

[10.] 12. Except as otherwise provided in [subsection 5,] subsections 6 and 7, the provisions adopted by reference in this section supersede the requirements of NAC 445B.001 to 445B.395, inclusive, and section 1 of this regulation for all stationary sources subject to the provisions adopted by reference only if those requirements adopted by reference are more stringent.

[11.] 13. For the purposes of this section, “administrator” as used in the provisions of Parts 60 [and 61,] , 61 and 63, Chapter I, Title 40, Code of Federal Regulations adopted pursuant to this section means the director.

Sec. 13. NAC 445B.224 is hereby amended to read as follows:

445B.224 1. The director shall maintain all public information obtained in the course of the performance of the duties set forth in NRS 445B.100 to 445B.845, inclusive, *and section 1 of this regulation* at [123] 333 West Nye Lane, Carson City, Nevada [89710.] 89706-0851.

2. The content of an operating permit is public information and cannot be certified as confidential information.

3. Information concerning the emission of a regulated air pollutant which has an ambient air quality standard or emission standard or has been designated as a hazardous air pollutant by the EPA cannot be certified as being confidential.

4. An owner or operator who submits information under a claim of confidentiality shall submit:

(a) One copy of the information to the director; and

(b) One copy of the information to the administrator.

Sec. 14. NAC 445B.242 is hereby amended to read as follows:

445B.242 The following are not by themselves considered modifications under NAC 445B.235 to 445B.250, inclusive:

1. Maintenance, repair [,] and replacement which the director determines to be routine for a source category, subject to [the provisions of subsection 2 of NAC 445B.238 and] NAC 445B.247.

2. An increase in the production rate of an existing facility, if that increase can be accomplished without a capital expenditure on the stationary source containing that facility, unless the change would be prohibited by an enforceable restriction on the permit.

3. An increase in the hours of operation, unless the change would be prohibited by an enforceable restriction on the permit.

4. Use of an alternative fuel or raw material if, ~~[prior to]~~ *before* the date any standard under NAC 445B.235 to 445B.250, inclusive, becomes applicable to that source type, the existing facility was designed to accommodate that alternative use. A facility is considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications, as amended, ~~[prior to]~~ *before* the change. Conversion to coal required for energy considerations, as specified in section 119(d)(5) of the Act, is not considered a modification.

5. The addition or use of any system or device whose primary function is the reduction of regulated air pollutants, except when an emission control system is removed or is replaced by a system which the director determines to be less environmentally beneficial.

6. The relocation or change in ownership of an existing facility.

Sec. 15. NAC 445B.250 is hereby amended to read as follows:

445B.250 Any owner or operator subject to the provisions of NAC 445B.235 to 445B.250, inclusive, shall furnish the director written notification of:

1. The date *that* construction, ~~[(or reconstruction as defined under NAC 445B.247,)]~~ of an affected facility is commenced, postmarked no later than 30 days after such date. This requirement does not apply in the case of mass-produced facilities which are purchased in completed form.

2. The anticipated date of initial startup of an affected facility, postmarked not more than 60 days nor less than 30 days ~~[prior to]~~ *before* such date.

3. The actual date of initial startup of an affected facility, postmarked within 15 days after such date.

4. Any physical or operational change to an existing facility which may increase the emission rate of any regulated air pollutant to which a standard applies, unless that change is specifically exempted under an applicable section or in NAC [445B.238 to 445B.245, inclusive,] 445B.239 or 445B.242 and the exemption is not denied under those sections. [This] *The* notice must be postmarked 60 days or as soon as practicable before the change is commenced and must include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change. The director may request additional relevant information subsequent to this notice.

5. The date upon which demonstration of the continuous monitoring system performance commences in accordance with NAC 445B.256 to 445B.267, inclusive. Notification must be postmarked not less than 30 days [prior to] *before* such date.

Sec. 16. NAC 445B.287 is hereby amended to read as follows:

445B.287 1. Unless exempted pursuant to NAC 445B.293, an operating permit or permit to construct is required for each [new and existing] stationary source. A [modification] *revision* of an operating permit or of a permit to construct is required [for each modified stationary source. An owner or operator must obtain an operating permit or modification of an operating permit before the commencement of construction or alteration of any stationary source.] *pursuant to the requirements of NAC 445B.321 and 445B.322 and section 1 of this regulation before the stationary source may be modified.*

2. An operating permit or permit to construct may not be transferred from one owner or piece of equipment to another. An owner or operator may apply for an administrative amendment reflecting a change of ownership or the name of the stationary source for the effective time remaining on the original operating permit pursuant to NAC 445B.319.

3. For the purposes of this section, “permit to construct” means a document issued and signed by the director before November 1, 1995, certifying that:

(a) Adequate empirical data for a stationary source has been received and constitutes approval of location; or

(b) All portions of NAC 445B.300 to 445B.313, inclusive, and any other provisions of NAC 445B.001 to 445B.395, inclusive, *and section 1 of this regulation*, have been complied with and constitutes approval of location and for construction.

Sec. 17. NAC 445B.290 is hereby amended to read as follows:

445B.290 An owner or operator must file a Class I-B application , *on a form provided by the director*, and obtain a Class I operating permit before commencing the construction, reconstruction [,] or modification of:

1. A proposed new major source;
2. A proposed [**significant modification, as defined in**] *modification for which a revision of an operating permit is requested pursuant to NAC 445B.321 or 445B.322, to [an existing] a major stationary source;*
3. *A modification to a Class II source that results in total emissions of any regulated air pollutant above the thresholds defined in NAC 445B.094 for a major source;*

4. A proposed new major source subject to a standard, a limitation or any other requirement adopted pursuant to 42 U.S.C. § 7411 or 7412, unless the major source is subject only to the requirements of 42 U.S.C. § 7412(r); or

[4.] 5. A proposed new stationary source which is included in a category of sources designated by the administrator pursuant to 42 U.S.C. § 7661a(a).

Sec. 18. NAC 445B.291 is hereby amended to read as follows:

445B.291 1. An owner or operator of any stationary source that is not subject to the requirements of NAC 445B.289 or 445B.290 [shall] *must* submit an application for and obtain a Class II operating permit. For a proposed [new] stationary source or a proposed modification to [an existing] *a* stationary source that is not subject to the requirements of NAC 445B.289 or 445B.290, an owner or operator [shall] *must* file an application and obtain a Class II operating permit *or a revision to an existing Class II operating permit, as appropriate*, before commencing construction [.] *of the proposed stationary source or the proposed modification.*

2. If an owner or operator of an existing stationary source that is not subject to the requirements of NAC 445B.289 or 445B.290 has not applied for and obtained an operating permit before the effective date of the program, he [shall] *must* file an application for an operating permit within 12 months after the effective date of the program. Filing such an application does not relieve the owner or operator of legal responsibility for his failure to obtain an operating permit pursuant to NAC 445B.300 or 445B.318, respectively, as these provisions existed before the effective date of the program.

3. The following provisions of NAC 445B.300 do not apply to Class II operating permits:

(a) Public notice;

- (b) Notice to the EPA and affected states;
- (c) Veto of the operating permit by the EPA; and
- (d) Petitions to the administrator.

[4. The director shall apply the provisions of 40 C.F.R. §§ 60.7, 60.14 and 60.15, as adopted pursuant to NAC 445B.221, when determining whether a proposed action or actions at a Class II source constitute a modification or reconstruction.]

Sec. 19. NAC 445B.298 is hereby amended to read as follows:

445B.298 [1. The date of receipt by the director establishes the official date of submittal for all Class I-A applications and applications for Class II operating permits.

2. For Class I-B applications, the] *The* official date of submittal of [all information required by NAC 445B.295] *an application for an operating permit or a revision of an existing operating permit* is the date on which the director determines that [he has received all the information required for preconstruction review.] *the application is complete.*

Sec. 20. NAC 445B.300 is hereby amended to read as follows:

445B.300 1. Except as otherwise provided in this subsection and NAC 445B.303, within 60 calendar days after the [official date of submittal of] *date on which* an application for a Class I operating permit or for the [modification] *significant revision* of such an operating permit [,] *is received*, the director shall determine if [any additional information is needed. For a Class I-B application, the official date of submittal of all information required by NAC 445B.295 is the date on which the director determines that the information required pursuant to the provisions regarding the prevention of significant deterioration of air quality or for preconstruction review is complete. Within 30 days after receiving a Class I-B application for a

Class I operating permit or for the modification of such an operating permit, the director shall determine whether any additional information is needed to process the portion of the application pertaining to preconstruction review. The director shall notify the applicant in writing if any additional information is needed.] *the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine that the application is complete.* Unless the director [requests additional information or otherwise notifies the applicant] *determines* that the application is incomplete within 60 days after *the date of receipt*, the official date of submittal [, the application shall be deemed complete. Within] *shall be deemed to be the date on which the director determines that the application is complete or 61 days after the date of receipt, whichever is earlier.*

2. *Except as otherwise provided in this subsection and NAC 445B.303, within 180* calendar days after [receiving adequate information,] *the official date of submittal of an application for a Class I operating permit, or for the revision of a Class I operating permit,* the director shall make a preliminary determination to issue or deny the operating permit or the [modification] *revision* of the operating permit. The director shall give preliminary notice of his intent to issue or deny the operating permit or the [modification] *revision* of the operating permit within 180 calendar days after [receiving adequate information for reviewing the application.

2. Within] *the official date of submittal.*

3. *Within 10 working days after the receipt of an application for a minor revision of a Class I operating permit, the director shall determine if the application is complete. If substantial additional information is required, the director shall determine the application to be incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 10 working days after the date on which the director receives the application, the official date of submittal is the date on which the director determines that the application is complete, or 11 working days after the date of receipt, whichever is earlier.*

4. *Except as otherwise provided in NAC 445B.319 and 445B.320, within 10 working days after the [official] date of [submittal] receipt of an application for a Class II operating permit or [a modification] for the revision of a Class II operating permit, the director shall determine if [any additional information is needed.] the application is complete. If substantial additional information is required, the director shall determine that the application is incomplete and return the application to the applicant. If substantial additional information is not required, the director shall determine the application to be complete. Unless the director determines that the application is incomplete within 10 working days after the date of receipt of the application, the official date of submittal of the application shall be deemed to be the date on which the director determines that the application is complete or 11 working days after the date of receipt, whichever is earlier. Within 60 days after [receiving adequate information to review the application,] the official date of submittal, the director shall issue or deny such an operating permit or the [modification] revision of such an operating permit.*

[3.] 5. If, after the official date of submittal, the director discovers that additional information is required to act on the application, the director may request additional information necessary to determine whether the proposed operation will comply with all of the requirements set forth in NAC 445B.001 to 445B.395, inclusive, and section 1 of this regulation. The applicant must provide in writing any additional information that the director requests within the time specified in the request of the director. Any delay in the submittal of the requested information will result in a corresponding delay in the action of the director on the application submitted to the director pursuant to subsection 1, 2 or 10.

6. The director's review and preliminary intent to issue or deny a Class I operating permit and the proposed conditions for the operating permit must be made public and maintained on file with the director during normal business hours at [123] 333 West Nye Lane, Carson City, Nevada, and in the air quality region where the source is located for 30 calendar days to enable public participation and comment and a review by any affected states.

[4.] 7. The director shall:

(a) Cause to be published a prominent advertisement in a newspaper of general circulation in the area in which the stationary source is located or in a state publication designed to give general public notice;

(b) Provide written notice to:

(1) Persons on a mailing list developed by the director, including those persons who request in writing to be included on the list; and

(2) Any affected state;

(c) Provide notice by other means if necessary to ensure that adequate notice is given to the public and affected states;

(d) Provide a copy of the director's review of the application, the director's preliminary intent to issue or deny the operating permit and the proposed operating permit to the administrator; and

(e) Establish a 30-day period for public comment.

[5.] 8. *Except as otherwise provided in NAC 445B.321, the provisions of subsections 6 and 7 do not apply to an administrative amendment to a permit made pursuant to NAC 445B.319, a change without revision to a permit made pursuant to NAC 445B.320 or a minor revision of a class I operating permit made pursuant to NAC 445B.321.*

9. The notice *required pursuant to subsection 7* must identify:

(a) The affected facility and the name and address of the applicant;

(b) The name and address of the authority processing the operating permit;

(c) The activity or activities involved in the operating permit and the emissions change involved in any **[modification]** *revision* of the operating permit;

(d) The name, address **[,]** and telephone number of a person from whom interested persons may obtain additional information, including copies of the proposed conditions for the operating permit, the application, all relevant supporting materials **[,]** and all other materials which are available to the authority that is processing the operating permit and which are relevant to the determination of the issuance of the operating permit; and

(e) A brief description of the procedures for public comment and the time and place of any hearing that may be held, including a statement of the procedures to request a hearing.

[6.] 10. All comments on the director's review and preliminary intent for issuance or denial must be submitted in writing to the director within 30 calendar days after the public announcement. The director shall give notice of any public hearing at least 30 days before the date of the hearing. The director shall keep a record of the names of any persons who made comments and of the issues raised during the process for public participation.

[7.] 11. Except as otherwise provided in subsection [8] 12 and NAC [445B.303,] 445B.319, 445B.320 and 445B.321, and within 12 months after [receiving a complete] *the official date of submittal of a class I-B* application, the director shall issue or deny the application for an operating permit or for a [modification] *revision* of the operating permit. The director shall make his decision by taking into account written comments from the public, affected states, and the administrator and the comments made during public hearings on the director's review and preliminary intent for issuance or denial, information submitted by proponents of the project and the effect of such a facility on the maintenance of the state, and national ambient air quality standards contained in NAC 445B.391 and the control strategy contained in the air quality plan. The director shall send a copy of the final permit to the administrator.

[8.] 12. For stationary sources subject to the provisions of 40 C.F.R § 52.21 regarding the prevention of significant deterioration of air quality, adopted pursuant to NAC 445B.221, the director shall issue or deny an application for an operating permit, or for the [modification] *revision* or renewal of such an operating permit, within 12 months after receiving a complete application.

[9.] 13. The director shall not issue an operating permit, or a [modification] *revision* of or a renewal of an operating permit, if the administrator objects to its issuance in writing within 45 days [of] *after* the administrator's receipt of the proposed conditions for the operating permit and the necessary supporting information . [, including all public comments submitted during the period allowed for public comment, or made during the public hearing.

10.] 14. Any person may petition the administrator to request that he object to an operating permit as provided in 40 C.F.R. § 70.8(d).

[11.] 15. If the administrator objects to the issuance of an operating permit of his own accord or in response to a public petition, the director shall submit revised proposed conditions for the operating permit in response to the objection within 90 days [.

12.] *after the date on which he is notified of the objection.*

16. An operating permit or the [modification] *revision* of an operating permit for a new or modified stationary source, other than a stationary source subject to the provisions of 40 C.F.R. § 52.21 regarding the prevention of significant deterioration of air quality, expires if construction is not commenced within 1 year after the date of issuance thereof or construction of the facility is delayed for 1 year after initiated.

Sec. 21. NAC 445B.303 is hereby amended to read as follows:

445B.303 1. During the first 3 years of the program, the times set forth in subsections 1 and [7] *11* of NAC 445B.300 for the issuance of an operating permit do not apply to Class I-A applications.

2. The director shall:

(a) Issue Class I operating permits for one-third of the applications received from existing stationary sources each year for 3 years.

(b) Issue Class I operating permits for all affected sources no later than December 31, 1997.

(c) Process Class I-B applications and applications for Class II operating permits in accordance with the times set forth in NAC 445B.300.

Sec. 22. NAC 445B.306 is hereby amended to read as follows:

445B.306 The director may issue a Class I operating permit, or a [modification] *revision* of or a renewal of a Class I operating permit, if:

1. The director has:

(a) Received a complete application for a Class I operating permit or for a [modification] *revision* of or a renewal of a Class I operating permit;

(b) [Except as otherwise provided in NAC 445B.319, 445B.320, and 445B.321, completed] *Completed* all requirements regarding public participation and comment pursuant to NAC 445B.300; and

(c) Notified and responded to all comments from affected states;

2. The conditions of the operating permit provide for compliance with [all] *the requirements of NAC 445B.001 to 445B.395, inclusive, section 1 of this regulation and any other* applicable requirements; and

3. The administrator has received a copy of the proposed operating permit, any necessary supporting information, and any notices to the public and affected states required pursuant to

NAC 445B.300, and has not objected to the issuance of the operating permit within 45 days after receipt of the proposed operating permit.

Sec. 23. NAC 445B.308 is hereby amended to read as follows:

445B.308 1. Before an operating permit or a [modification] *revision* of an operating permit may be issued for a new or modified stationary source, in accordance with NAC 445B.308 to 445B.313, inclusive, the applicant must submit to the director an environmental evaluation and any other information the director deems necessary to make an independent air quality impact assessment. The environmental evaluation must have approval for any street or highway changes or improvements from the county, regional [,] or state highway agency having jurisdiction over the streets and highways affected by the stationary source before submittal to the director.

2. The director shall not issue an operating permit or a [modification] *revision* of an operating permit for any stationary source if the environmental evaluation submitted by the applicant shows, or if the director determines, in accordance with the provisions of this section, that the stationary source:

- (a) Will prevent the attainment and maintenance of the state or national ambient air quality standards;
- (b) Will cause a violation of the applicable control strategy contained in the approved air quality plan;
- (c) Will cause a violation of any applicable requirement; or
- (d) Will not comply with subsection 3.

3. To be issued an operating permit or a [modification] *revision* of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 51.165, who proposes to construct in an area designated nonattainment for the regulated air pollutant or pollutants for which the stationary source or modification is major must:

(a) Comply with the provisions of 40 C.F.R. § 51.165, as incorporated by reference in NAC 445B.221.

(b) Adopt as an emission limitation for the stationary source the lowest achievable emission rate for each nonattainment regulated air pollutant from the stationary source.

(c) Demonstrate that all other stationary sources within this state which are owned, operated [.] or controlled by the applicant are in compliance or on a schedule of compliance with NAC 445B.001 to 445B.395, inclusive, *and section 1 of this regulation*, and all other applicable requirements and conditions of the permit.

(d) Conduct an analysis of any anticipated impact on visibility in any federal Class I area which may be caused by emissions from the stationary source.

(e) Conduct an analysis of alternative sites, sizes, processes of production [.] and techniques for environmental control for the proposed stationary source. Except as otherwise provided in this paragraph, the analysis must demonstrate that the benefits of the proposed stationary source significantly outweigh the detrimental environmental and social effects that will result from its location, construction [.] or modification. If the major stationary source or major modification proposes to locate in an area designated as marginal nonattainment for ozone, the analysis must demonstrate an offset ratio of 1.2 to 1 for volatile organic compounds and

nitrogen oxides. For the purposes of this paragraph, a stationary source which is major for volatile organic compounds or nitrogen oxides shall be deemed major for ozone if it proposes to locate in an area designated as nonattainment for ozone.

(f) Comply with one of the following:

(1) Sufficient offsets in emissions must be obtained by the time the proposed stationary source begins operation to ensure that the total allowable emissions of each nonattainment regulated air pollutant from the existing stationary sources in the area, those stationary sources in the area which have received their respective permits and the proposed stationary source will be sufficiently less than the total emissions from the existing stationary sources and those stationary sources in the area which have received their respective permits before the proposed stationary source applies for its operating permit or a [modification] *revision* of an operating permit, in order to achieve reasonable further progress; or

(2) If the major stationary source or major modification is located in a zone identified by the administrator as one to be targeted for economic development, demonstrate that the emission from the stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for a regulated air pollutant for the nonattainment area.

For the purposes of this paragraph, offsets must comply with the provisions of Appendix S of 40 C.F.R. Part 51, as incorporated by reference in NAC 445B.221, and be coordinated with the appropriate local agency for the control of air pollution.

4. To be issued an operating permit or a [modification] *revision* of an operating permit, the owner or operator of a major stationary source or major modification, as those terms are defined in 40 C.F.R. § 52.21, who proposes to construct in any area designated as attainment

or unclassifiable under 42 U.S.C. § 7407(d), must comply with the provisions of 40 C.F.R. § 52.21, as incorporated by reference in NAC 445B.221.

5. The director may impose any reasonable conditions on his approval, including conditions requiring the owner or operator of the stationary source to:

(a) Conduct monitoring of the quality of the ambient air at the facility site for a reasonable period before the commencement of construction or modification and for any specified period after operation has begun at the stationary source; and

(b) Meet standards for emissions that are more stringent than those found in NAC 445B.001 to 445B.395, inclusive [.] , *and section 1 of this regulation.*

6. Where a proposed stationary source located on contiguous property is constructed or modified in phases which individually are not subject to review as provided in NAC 445B.308 to 445B.313, inclusive, all phases occurring since November 7, 1975, must be added together for determining the applicability of those sections.

7. Approval and issuance of an operating permit or a [modification] *revision* of an operating permit for any stationary source does not affect the responsibilities of the owner or owners to comply with any other portion of the control strategy.

8. An owner or operator of a Class II source [not subject to federal requirements] may request an exemption from the requirement to submit an environmental evaluation. Within 30 days after receipt of a written request for an exemption, the director shall grant or deny the request and notify the owner or operator in writing of his determination.

9. As used in this section:

(a) “Lowest achievable emission rate” has the meaning ascribed to it in 40 C.F.R. § 51.165, as incorporated by reference in NAC 445B.221.

(b) “Offset ratio” means the percentage by which a reduction in an emission must exceed the corresponding increase in that emission.

(c) “Reasonable further progress” means the annual incremental reductions in emissions of the relevant regulated air pollutant that are required by 42 U.S.C. §§ 7501 to 7515, inclusive, or are required by the administrator to ensure attainment of the applicable standard for national ambient air quality by the applicable date.

Sec. 24. NAC 445B.310 is hereby amended to read as follows:

445B.310 An applicant for an operating permit, a [modification] *revision* to an operating permit or a request for a change of location , *which is not subject to the provisions of 40 C.F.R. Part 52.21, as adopted by reference in NAC 445B.221, must submit with the application an environmental evaluation* for:

1. A new [or modified] stationary source [, located at the same facility,] which emits, or has the potential to emit greater than 25 [short] tons of a regulated air pollutant per year;

2. [A temporary source, relocating at a facility, which emits or has the potential to emit greater than 25 short tons of a regulated air pollutant per year;] *A modification to an existing stationary source that meets the following criteria:*

(a) The existing stationary source has the potential to emit greater than 25 tons of a regulated air pollutant per year; and

(b) The proposed modification has the potential to emit greater than 10 tons of a regulated air pollutant per year; or

3. Upon written notice from the director, any other source or combination of sources . [, **shall submit with the application an environmental evaluation.**]

Sec. 25. NAC 445B.315 is hereby amended to read as follows:

445B.315 1. The director shall cite the legal authority for each condition contained in an operating permit.

2. An operating permit must contain the following conditions:

(a) The term of the operating permit is 5 years.

(b) The holder of the operating permit shall retain records of all required monitoring data and supporting information for 5 years [**from**] *after* the date of the sample collection, measurement, report [,] or analysis. Supporting information includes all records regarding calibration and maintenance of the monitoring equipment and all original strip-chart recordings for continuous monitoring instrumentation.

(c) Each of the conditions and requirements of the operating permit is severable and, if any are held invalid, the remaining conditions and requirements continue in effect.

(d) The holder of the operating permit shall comply with all conditions of the operating permit. Any noncompliance constitutes a violation and is [**grounds**] *a ground* for:

(1) An action for noncompliance;

(2) [**Modifying,**] *Revising*, revoking, reopening and revising, or terminating the operating permit by the director; or

(3) Denial of an application for a renewal of the operating permit by the director.

(e) The need to halt or reduce activity to maintain compliance with the conditions of the operating permit is not a defense to noncompliance with any condition of the operating permit.

(f) The director may [modify,] *revise*, revoke and reissue, reopen and revise, or terminate the operating permit for cause.

(g) The operating permit does not convey any property rights or any exclusive privilege.

(h) The holder of the operating permit shall provide the director, within a reasonable time, with any information that the director requests in writing to determine whether cause exists for [modifying,] *revising*, revoking and reissuing, reopening and revising, or terminating the operating permit, or to determine compliance with the conditions of the operating permit.

(i) The holder of the operating permit shall pay fees to the director in accordance with the provisions set forth in NAC 445B.327 and 445B.331.

(j) The holder of the operating permit shall allow the director or any authorized representative, upon presentation of credentials, to:

(1) Enter upon the premises of the holder of the operating permit where:

(I) The stationary source is located;

(II) Activity related to emissions is conducted; or

(III) Records are kept pursuant to the conditions of the operating permit;

(2) Have access to and copy, during normal business hours, any records that are kept pursuant to the conditions of the operating permit;

(3) Inspect, at reasonable times, any facilities, practices, operations [,] or equipment, including any equipment for monitoring or controlling air pollution, that are regulated or required pursuant to the operating permit; and

(4) Sample or monitor, at reasonable times, substances or parameters to determine compliance with the conditions of the operating permit or applicable requirements.

(k) A responsible official of the stationary source shall certify that, based on information and belief formed after a reasonable inquiry, the statements made in any document required to be submitted by any condition of the operating permit are true, accurate [,] and complete.

Sec. 26. NAC 445B.319 is hereby amended to read as follows:

445B.319 1. The holder of an operating permit may request or the director may initiate an administrative amendment of an operating permit to:

(a) Correct typographical errors;

(b) Identify a change in the name, address [,] or telephone number of any person identified in the operating permit, or provide a similar minor administrative change at the stationary source;

(c) Require more frequent monitoring or reporting by the holder of the operating permit;

(d) Add the serial numbers of specific pieces of equipment which were not available at the time of the issuance of or [modification] *revision* of the operating permit; or

(e) Allow for a change in ownership or operational control of a stationary source if the director determines that no other change in the operating permit is necessary. A person who requests an administrative amendment pursuant to this paragraph must submit to the director a written agreement specifying a date for the transfer of responsibility for the operating permit and an agreement between the current and the new holder of the operating permit regarding insurance coverage and liability.

2. A holder of an operating permit must request an administrative amendment on an application provided by the director. The application must be accompanied by a fee of \$25.

3. The director shall:

(a) Issue or deny an application for an administrative amendment within 30 days after receipt of the application.

(b) Send a copy of the administrative amendment to the administrator.

Sec. 27. NAC 445B.320 is hereby amended to read as follows:

445B.320 1. The owner or operator of a stationary source operating in compliance with **[a Class I]** *an* operating permit may make changes which contravene an express term of the operating permit without a revision of the operating permit if the changes do not:

(a) Constitute modifications pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive **[;]** , *or constitute a modification as that term is defined in NAC 445B.099;*

(b) Violate any *provision of NAC 445B.001 to 445B.395, inclusive, section 1 of this regulation or any other* applicable **[requirement; and]** *requirement; or*

(c) Exceed the allowable emissions set forth in the operating permit **[.]** *for any emissions unit.*

2. Any conditions of **[a Class I]** *an* operating permit that are requirements for monitoring, methods of testing, recordkeeping, reporting **[.]** or compliance certification may not be changed pursuant to this section.

3. For each change made pursuant to this section, the holder of the operating permit shall provide *a* written notification to the director and the administrator at least 7 days before making the change. This notification must include:

(a) A **[brief]** *detailed* description of the change;

(b) The date on which the change will occur;

(c) Any change in emissions **[;]** , *as determined in accordance with NAC 445B.239;* and

(d) Any condition of the operating permit which will no longer apply because of the change.

4. The holder of the operating permit, the director [.] and the administrator, *as appropriate*, shall attach a copy of the written notification to his *respective* copy of the permit.

Sec. 28. NAC 445B.321 is hereby amended to read as follows:

445B.321 1. A minor [modification] *revision* may be made to a Class I operating permit if [it:] *the revision*:

- (a) Does not violate any applicable requirement;
- (b) Does not involve significant changes to the existing requirements for monitoring, reporting [.] or recordkeeping;
- (c) Does not require or change:
 - (1) A determination of an emission limitation or other standard on a case-by-case basis;
 - (2) A determination of the ambient impact for any temporary source; or
 - (3) A visibility or increment analysis;
- (d) Does not establish or change a condition of the operating permit for which there is no corresponding underlying applicable requirement and which was requested in order to avoid an applicable requirement, including:
 - (1) A federally enforceable emissions cap; or
 - (2) An alternative emission limitation pursuant to 42 U.S.C. § 7412(i)(5); [and]
- (e) Is not a modification pursuant to any provision of 42 U.S.C. §§ 7401 to 7515, inclusive [.

2. The director may process as a minor modification an increase in the emissions of a criteria pollutant, other than lead, of 1 ton per year or less from a stationary source located in an area designated as an attainment or as an unclassifiable area for the criteria pollutant if the increase in emissions does not violate any of the requirements set forth in subsection 1.

3.] ; and

(f) Does not result in an increase in allowable emissions that exceeds any of the following specified thresholds:

- (1) Carbon monoxide, 100 tons per year.
- (2) Nitrogen oxides, 40 tons per year.
- (3) Sulfur dioxide, 40 tons per year.
- (4) PM_{10} , 15 tons per year.
- (5) Ozone, 40 tons per year of volatile organic compounds.
- (6) Sulfuric acid mist, 7 tons per year.
- (7) Hydrogen sulfide (H_2S), 10 tons per year.

2. An owner or operator must request a minor [modification] *revision* on an application form provided by the director. The application must include:

- (a) A description of the modification;
- (b) A description of the emissions resulting from the modification;
- (c) An identification of any new applicable requirements that will apply because of the modification;
- (d) Suggested conditions of the operating permit;

(e) Certification by a responsible official of the stationary source that the proposed modification complies with the criteria for a minor [modification] *revision* set forth in subsection 1; and

(f) Any relevant information concerning the proposed change which is required by NAC 445B.295.

[4.] 3. The director shall:

(a) *Determine, in accordance with subsection 3 of NAC 445B.300, whether the application for a minor revision is complete.*

(b) *Transmit the application to the administrator within 5 working days after the official date of submittal of the application.*

(c) Provide notice to [the administrator and] any affected state within 5 working days after [his receipt of a complete] *the official date of submittal of the* application for a minor [modification.

(b)] *revision.*

(d) *Provide a 30-day period for public comment on the application.*

(e) *Within 45 days after the official date of submittal of the application:*

(1) *Determine whether the proposed minor revision meets the criteria for a minor revision set forth in this section;*

(2) *Determine whether the proposed conditions of the operating permit are adequate;*
and

(3) *If the director determines that the proposed modification does not meet the criteria for a minor revision, deny the proposed revision and notify the applicant and the administrator.*

(f) If the director determines that the applicant's proposed conditions of the operating permit are not adequate, draft appropriate conditions for the operating permit. Proposed conditions drafted by the director must be submitted to the administrator for review.

(g) Notify the administrator of any recommendations from an affected state which the director does not accept.

[5. If the administrator does not object to the minor modification within 45 days after his receipt of the notification, the]

4. The director may issue the minor [modification.

6.] revision upon notification by the administrator that the administrator does not object to the minor revision. If the administrator does not notify the director within 45 days after the date on which the administrator received the notification pursuant to this section or within 45 days after the date on which the administrator receives the director's proposed conditions, whichever is later, the administrator shall be deemed to have not objected the minor revision.

5. If the administrator objects to the minor [modification,] revision, the director shall:

(a) Deny the application for the minor [modification;] revision;

(b) Determine whether the minor [modification] revision should be reviewed under the procedures for a significant [modification;] revision; or

(c) Revise the proposed [modification] revision of the operating permit and forward it to the administrator for review.

[7.] 6. The director shall take action pursuant to subsection *4 or 5 [or 6]* within 90 days after **[receipt]** *the official date of submittal* of an application for a minor **[modification]** *revision* or within 15 days after the administrator's 45-day review period ends, whichever is later.

Sec. 29. NAC 445B.322 is hereby amended to read as follows:

445B.322 1. The holder of an operating permit may request a significant [modification] *revision* of a Class I operating permit if it does not qualify as a change that may be made pursuant to NAC 445B.320, or as an administrative amendment or a minor [modification.] *revision*. A significant [modification] *revision* includes, but is not limited to, a [modification:] *revision*:

(a) Of an existing condition of the operating permit relating to monitoring or making the requirements for reporting or recordkeeping less stringent;

(b) Which requires or changes:

(1) A determination of an emission limitation on a case-by-case basis;

(2) A determination of ambient impact for any temporary source; or

(3) A visibility or increment analysis;

(c) Which would establish or change a condition of the operating permit and which is requested or assumed by the owner or operator of the stationary source in order to avoid any applicable requirement;

(d) Subject to 40 C.F.R. § 52.21 or 40 C.F.R. Part 60, as adopted pursuant to NAC 445B.221; or

(e) Subject to 42 U.S.C. § 7412.

2. An application for a significant [modification] *revision* must comply with the requirements for an application for a Class I operating permit set forth in NAC 445B.295 and 445B.297, including public participation and comment and a review by any affected states and the administrator pursuant to NAC 445B.300.

3. An application for a significant [modification] *revision* must be accompanied by the fee set forth in NAC 445B.327.

Sec. 30. NAC 445B.325 is hereby amended to read as follows:

445B.325 1. A Class I operating permit must be reopened and revised to incorporate any additional applicable requirement adopted pursuant to the Act if, on the effective date of the applicable requirement, the operating permit has a remaining term of 3 or more years. The reopening must be completed no later than 18 months after the effective date of the applicable requirement.

2. An operating permit may be terminated, reopened and revised, [modified,] *revised*, or revoked and reissued if:

(a) The director or the administrator determines that the operating permit contains a material mistake or is based on inaccurate statements;

(b) The director or the administrator determines that the operating permit, as written, does not ensure compliance with all applicable requirements; or

(c) The director determines that there has been a violation of any of the provisions of NAC 445B.001 to 445B.395, inclusive, *and section 1 of this regulation*, any applicable requirement, or any condition contained in the operating permit.

3. The director shall notify the holder of the operating permit at least 30 days before he terminates, reopens and revises, [modifies,] *revises*, or revokes and reissues the operating permit. The notice must be made by certified mail and must contain the legal authority, the jurisdiction [,] and the reasons for the action taken.

4. If the administrator notifies the director and the holder of the operating permit that cause exists to reopen the operating permit, the director shall forward to the administrator a proposed determination of the reopening and revision, the [modification] *revision* of, or the revocation and reissuance of the operating permit within 90 days after receipt of the notice from the administrator.

5. If the director reopens an operating permit, he shall revise only those portions of the operating permit for which cause exists.

6. The reopening of an operating permit pursuant to this section must comply with all of the relevant requirements for the issuance or [modification] *revision* of a permit, including the requirements related to the content of the permit and the requirements for notice, public participation and comment, and a review by any affected states.

Sec. 31. NAC 445B.327 is hereby amended to read as follows:

445B.327 1. The fees for an operating permit are as follows:

- (a) Class I operating permit\$14,500
- (b) Significant [modification] *revision* of a Class I operating permit7,500
- (c) Minor [modification] *revision* of a Class I operating permit1,500
- (d) Renewal of a Class I operating permit5,000
- (e) Class II operating permit1,800
- (f) [Modification] *Revision* of a Class II operating permit 900
- (g) Renewal of a Class II operating permit 700
- (h) Class II general permit 100

An applicant must pay the entire fee when he submits an application to the director.

2. Except as otherwise provided in this subsection, the annual fee based on emissions for any stationary source is \$3.75 per ton times the total tons of each regulated pollutant, except carbon monoxide, emitted during the preceding calendar year. If a stationary source emitted less than 25 tons of all regulated air pollutants combined, except carbon monoxide, during the preceding calendar year, the holder of the operating permit is exempt from the fee required by this subsection for that stationary source.

3. To determine the fee set forth in subsection 2:

(a) Emissions must be calculated using:

(1) The emission unit's actual operating hours, rates of production [.] and in-place control equipment;

(2) The types of materials processed, stored [.] or combusted; and

(3) Data from:

(I) A test for emission compliance;

(II) A continuous emission monitor;

(III) The most recently published issue of "Compilation of Air Pollutant Emission Factors," EPA Publication No. AP-42; or

(IV) Other emission factors or methods which the director has validated; or

(b) If paragraph (a) does not apply to a stationary source that was in operation during the preceding calendar year, emissions must be calculated using the permitted allowable emissions for that stationary source.

4. The department shall collect all fees required by subsection 2 no later than July 1st of each year.

5. The fee required by subsection 2 is due and payable to the “Nevada State Treasurer, Environmental Protection” within 45 days after the date of the invoice.

Sec. 32. NAC 445B.360 is hereby amended to read as follows:

445B.360 For purposes of NAC 445B.360 to [445B.367,] 445B.365, inclusive, the maximum allowable throughput to be used to calculate allowable emission rates must be the [weight rates for single sources.] *maximum process weight for an emission unit.*

Sec. 33. NAC 445B.363 is hereby amended to read as follows:

445B.363 1. Owners or operators of stationary sources not otherwise included in NAC 445B.360 to [445B.367,] 445B.365, inclusive, shall not cause or permit PM₁₀ to be discharged from any emission unit into the atmosphere in excess of the allowable emission determined by the use of the formula contained in subsection 2 or 3.

2. When the maximum allowable throughput is less than 30 tons per hour, the maximum allowable weight discharged per hour must be determined by using the following equation:

$$E = 4.10P^{0.67}$$

3. When the maximum allowable throughput equals or exceeds 30 tons per hour, the maximum allowable weight discharged per hour must be determined by using the following equation:

$$E = 55P^{0.11} - 40$$

4. For the purposes of subsections 2 and 3:

(a) “E” means the maximum rate of emission in pounds per hour.

(b) “P” means the maximum allowable throughput in tons per hour.

Sec. 34. NAC 445B.373 is hereby amended to read as follows:

445B.373 1. No person may cause or permit the emission of compounds of sulfur caused by the combustion of fuel in fuel-burning equipment in excess of the quantity calculated by the use of the formula in subsection 2 or 3.

2. Where an emission unit has a total input of heat of less than 250 million Btu's [(63 million kg-cal)] per hour, the allowable emission must be calculated by the use of the following equation:

<u>[ENGLISH]</u>	<u>[METRIC]</u>
$Y = 0.7X$	$[(Y = 1.26X)]$

For the purposes of this subsection:

- (a) "X" means the operating input of heat in millions of Btu's [(kg-cal)] per hour.
- (b) "Y" means the allowable rate of emission of sulfur in pounds [(kg)] per hour.

3. Where an emission unit has a total input of heat equal to or greater than 250 million Btu's [(63 million kg-cal)] per hour, the allowable emission of sulfur must be calculated by the use of the following equations:

	<u>[ENGLISH]</u>	<u>[METRIC]</u>
Liquid fuel	$Y = 0.4X$	$[Y = 0.7X]$
Solid fuel	$Y = 0.6X$	$[Y = 1.1X]$
Combination	$L (0.4) [-] + S (0.6)$	$[L (0.7) - S (1.1)]$
Fuel	$Y = \text{-----}$	$[(Y = \text{-----})]$
	$L + S$	$[L + S]$

For the purposes of this subsection:

- (a) "X" means the input of the operation in millions of Btu's [(kg-cal)] per hour.

- (b) “Y” means the allowable rate of emissions of sulfur in pounds [(kg)] per hour.
- (c) “L” means the percentage of total input of heat derived from liquid fuel.
- (d) “S” means the percentage of total input of heat derived from solid fuel.

Sec. 35. NAC 445B.374 is hereby amended to read as follows:

445B.374 1. No person may cause or permit the emission of sulfur compounds where the sulfur originates in the material being processed, excluding hydrogen sulfide and sulfur from all solid, liquid [,] or gaseous fuel, in excess of the quantity determined by the following equation:

[ENGLISH]

$$E = 0.292P^{0.904}$$

[METRIC]

$$[(E = 0.271P^{0.904})]$$

when “E” is equal to or greater than 10 pounds [(5 kilograms)] per hour. When “E” is less than 10 pounds [(5 kilograms)] per hour, the gas stream concentration must not exceed 1,000 ppm by volume.

2. For the purposes of subsection 1:

- (a) “E” means the allowable sulfur emission in pounds [(kilograms)] per hour.
- (b) “P” means the total feed sulfur, excluding hydrogen sulfide, in pounds [(kilograms)] per hour.

3. When sulfur emissions are due to sulfur contributions from both the fuel and the material being processed, the allowable emissions must be the sum of those allowed by NAC 445B.373 [to 445B.376, inclusive.] 445B.374 and 445B.376.

4. Incinerators used solely for the control of odor by the combustion of noxious sulfur containing compounds are exempt from NAC 445B.370 to 445B.376, inclusive, and are

governed by NAC 445B.287 to 445B.335, inclusive, *and section 1 of this regulation*, and 445B.360 to [445B.367,] 445B.365, inclusive.

5. A person shall not cause or permit the emission of any gas containing hydrogen sulfide which is discharged to the atmosphere from any emission unit unless the emission unit is vented, incinerated [,] or flared, or the stream is otherwise disposed of, in a manner such that the ambient sulfur dioxide standards and the ambient hydrogen sulfide standards are not exceeded. Before construction, compliance with the ambient standards must be based on the applicable models, bases [,] and other requirements specified in [*“Guideline on Air Quality Models” (Revised) EPA 450/2-78-027R, published by the United States Environmental Protection Agency. The publication as it exists on August 1, 1986, is adopted by reference. A copy of the publication may be obtained from the National Technical Information Service, United States Department of Commerce, Springfield, Virginia 22161, for the price of \$31.*] *40 C.F.R. Part 51, Appendix W, Guideline on Air Quality Models, adopted by reference pursuant to NAC 445B.221, except that the director may authorize the modification of a model specified in the Guideline on Air Quality Models or the use of a model not included in the Guideline on Air Quality Models if the director determines that such modification or use is appropriate.*

Sec. 36. NAC 445B.024, 445B.025, 445B.026, 445B.039, 445B.040, 445B.089, 445B.100, 445B.101, 445B.150, 445B.192, 445B.238, 445B.240, 445B.241, 445B.243, 445B.244, 445B.245, 445B.336 and 445B.367 are hereby repealed.

TEXT OF REPEALED SECTIONS

445B.024 “Barite” defined. “Barite” means a naturally occurring sulfate of barium, BaSO₄.

445B.025 “Barite dryer” defined. “Barite dryer” means any stationary source designed to reduce the moisture content of crude barite by the use of heat.

445B.026 “Barite grinding mill” defined. “Barite grinding mill” means any stationary source designed to reduce crude barite to a finished product.

445B.039 “Colemanite” defined. “Colemanite” means naturally occurring hydrated calcium borate with a molecular formula of Ca₂B₆O₁₁5H₂O, and which is normally white or colorless.

445B.040 “Colemanite processing plant” defined. “Colemanite processing plant” means a facility which has the capability of treating colemanite ore for the production of calcined or uncalcined concentrate. Treating may consist of crushing, screening, grinding, transferring, storing, calcining as required, and loading.

445B.089 “Kilogram-calorie” defined. “Kilogram-calorie” means the amount of heat needed to raise the temperature of one kilogram of water one degree Centigrade, at a constant, absolute pressure of 760 millimeters of mercury.

445B.100 “Molybdenum” defined. “Molybdenum” means a lead ore known as molybdenite, altered lead, or galena silver which is used in alloys.

445B.101 “Molybdenum processing plant” defined. “Molybdenum processing plant” means a facility which has the capability of treating a molybdenum ore for the production of concentrate. Treating can consist of crushing, screening, grinding, transferring, storing, drying, or loading.

445B.150 “Reconstruction” defined. “Reconstruction” means any reconstruction in which the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable but entirely new stationary source.

445B.192 “Structure, building, facility, or installation” defined. “Structure, building, facility, or installation” means all of the activities that emit air pollutants which:

1. Belong to the same major industrial grouping described in the “Standard Industrial Classification Manual,” as incorporated by reference in NAC 445B.221;
2. Are located on one or more contiguous or adjacent properties; and
3. Are owned or operated by the same person or by persons under common control.

445B.238 Modification: Applicability of provisions.

1. Except as otherwise provided under NAC 445B.240, 445B.242, and 445B.245, any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any regulated air pollutant to which a standard applies is considered a modification within the meaning of section 111 of the Act. Upon modification, an existing facility becomes an affected facility for each regulated air pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.

2. The addition of an affected facility to a stationary source as an expansion to that source or as a replacement for an existing facility does not by itself bring within the applicability of NAC 445B.235 to 445B.250, inclusive, any other facility within that source.

445B.240 Modification: Alternative methods to prevent increase; closure of facility.

1. A modification shall not be deemed to occur if an existing facility undergoes a physical or operational change where the owner or operator demonstrates to the director's satisfaction (by any of the procedures prescribed under NAC 445B.239) that the total emission rate of any regulated air pollutant has not increased from all facilities within the stationary source to which appropriate reference, equivalent, or alternative methods can be applied.

2. An owner or operator may completely and permanently close any facility within a stationary source to prevent an increase in the total emission rate regardless of whether such reference, equivalent, or alternative method can be applied, if the decrease in emission rate from such closure can be adequately determined by any of the procedures prescribed under NAC 445B.239.

3. The owner or operator of the stationary source has the burden of demonstrating compliance with this section.

445B.241 Modification: Demonstration of compliance by owner or operator.

1. Demonstration by the owner or operator of compliance with NAC 445B.240 must be in writing and include:

- (a) The name and address of the owner or operator.
- (b) The location of the stationary source.

(c) A complete description of the existing facility undergoing the physical or operational change resulting in an increase in emission rate, any applicable control system, and the physical or operational change to such facility.

(d) The emission rates into the atmosphere from the existing facility of each regulated air pollutant to which a standard applies determined before and after the physical or operational change takes place, to the extent such information is known or can be predicted.

(e) A complete description of each facility and the control systems, if any, for those facilities within the stationary source where the emission rate of each regulated air pollutant in question will be decreased to compensate for the increase in emission rate from the existing facility undergoing the physical or operational change.

(f) The emission rates into the atmosphere of the regulated air pollutants in question from each facility described in paragraph (e), both before and after the improvement or installation of any applicable control system or any physical or operational changes to such facilities to reduce the emission rate.

(g) A complete description of the procedures and methods used to determine the emission rates.

2. Compliance with NAC 445B.240 may be demonstrated by the methods listed in NAC 445B.239 where appropriate. Decreases in emissions resulting from requirements of a state implementation plan approved or promulgated under 40 C.F.R. Part 52 will not be acceptable. The required reduction in emission rates may be accomplished through the installation or improvement of a control system or through physical or operational changes to facilities including reducing the production of a facility or closing a facility.

3. Emission rates established for the existing facility which is undergoing a physical or operational change resulting in an increase in the emission rate, and established for the facilities described under paragraph (e) of subsection 1 become the baseline for determining whether such facilities undergo a modification or are in compliance with standards.

4. Any emission rate in excess of that rate established under subsection 3 is a violation of NAC 445B.001 to 445B.395, inclusive, except as otherwise provided in NAC 445B.242. But any owner or operator electing to demonstrate compliance under NAC 445B.240 must apply to the director to obtain the use of any exemptions under subsections 2 to 4, inclusive, of NAC 445B.242. The director will grant such exemption only if, in his judgment, the compliance originally demonstrated under this section will not be circumvented or nullified by the utilization of the exemption.

445B.243 Modification: Compliance with standards. Compliance with all applicable standards must be achieved within 180 days of the completion of any physical or operational change subject to the control measures specified in subsection 1 of NAC 445B.238 or NAC 445B.240.

445B.244 Modification: Continuous monitoring and reporting. The director may require the use of continuous monitoring devices and compliance with necessary reporting procedures for each facility described in paragraphs (c) and (e) of NAC 445B.241.

445B.245 Modification: Conflicting provisions. Special provisions set forth under NAC 445B.238 to 445B.244, inclusive, supersede any conflicting provisions of those sections.

445B.336 Requests to alter restrictions on permits. A request for an alteration of any restriction on a permit relating to emissions, including, but not limited to, limits on emissions, operating hours, and throughput of a permitted stationary source, must be accompanied by:

1. An application for a new operating permit; and
2. The environmental evaluation required by NAC 445B.310 for an operating permit.

445B.367 Maximum allowable weight of particulate matter discharged at facility in Gabbs, Nevada.

1. The maximum allowable weight of PM₁₀ discharged per hour for the specified discharge points at the facility of the Basic Refractory Division of Basic, Inc., at Gabbs, must be determined by the use of the following equations:

(a) For Kiln #1 the maximum allowable emission is 20.4 lb/hr.

(b) For calcining at Kiln #1 the allowable emission is:

(1) For maximum allowable throughput less than 30 tons per hour:

$$E = 0.6 (0.64P^{1.12})$$

(2) For maximum allowable throughput equal to or greater than 30 tons per hour:

$$E = 0.6 (54.55P^{0.11} - 50)$$

(c) For Kiln #2 the maximum allowable emission is 631.2 lb/hr.

(d) For calcining and drying at Kiln #2 the allowable emission is:

$$E = 0.6 (32.66P)$$

2. For the purposes of subsection 1:

(a) "E" means the emission allowed in pounds per hour.

(b) "P" means the process weight in tons per hour.